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C O N F I D E N T I A L SECTION 01 OF 03 ASUNCION 000869

SIPDIS

STATE FOR A/S NORIEGA, A/S RADEMAKER, PDAS DERHAM, PM P
MURRAY AND W BROOKS
STATE ALSO FOR T 7208 HST FRANCIS BOLTON
STATE PASS TO USAID LAC/AA
DOD FOR OUSD(P)/ISF/NP/ICC COL TIA JOHNSON
NSC FOR SUE CRONIN
SOUTHCOM FOR GEN CRADDOCK AND POLAD DAN JOHNSON

E.O. 12958: DECL: 07/07/2015

TAGS: [MARR MASS PGOV PREL PINR PA KICC](#)

SUBJECT: PARAGUAY: A TIME TO TREAD LIGHTLY ON ARTICLE 98

REF: A. ASUNCION 00860

[1](#)B. ASUNCION 00669

[1](#)C. ASUNCION 00567

[1](#)D. ASUNCION 00526

Classified By: Ambassador John F. Keane, reasons 1.4(b) and (d).

[1](#)1. (C) Summary and Introduction: Recent erroneous press reports in Paraguay and neighboring countries (ref A) are unhelpful to our ongoing Article 98 negotiations with Paraguay, which reached deadlock several months ago (refs B, C, D). What currently separates us is six words, so we should not lose hope. The Ambassador will discuss the issue again with Foreign Minister (FM) Rachid at their next meeting. We may need to wait until current unfavorable press coverage blows over to get a good sense of how best to proceed. The fact that we have several military exercises starting now and in the near future will retain press interest, as will SOUTHCOM Combatant Commander General Craddock's and SECDEF Rumsfeld's upcoming visits. The GOP will likely be nervous about the public pressure and thus cautious. As a result, the next few weeks will probably be a time to lay low and try to avoid debating the issue in the media. To do otherwise could well lose us the permissive environment we have for exercises, which is valuable in its own right, while gaining nothing on Article 98. On July 7, the Embassy issued a press release to correct some of the more absurd accusations that have surfaced in the press (see paras. 4 and 5, below). We intentionally did not/not raise the ICC, but others have, and will continue to do so. End Summary and Introduction.

Flap Over Article 98/Immunities

[1](#)2. (C) Recent press in Paraguay and neighboring countries criticizing military exercises in Paraguay has accused us of everything from planning to set up a permanent base here to scheming to steal fresh water from the Guaraní Aquifer. An Argentine journalist wrote an article linking the recent exercise immunities agreement to Article 98 protections, suggesting this agreement violates a MERCOSUR commitment not to enter into Article 98 agreement with the U.S. and represented another reason to object to military exercises. A July 7 article in the Bolivian press claimed the U.S. sought to establish a base 250 kms off Bolivia's border with Paraguay for the purpose of watching Bolivia's oil and gas reserves. There have been other reports closer to the truth. However, as Washington looks at how to proceed in Article 98 negotiations, we offer the following points for consideration:

-- Paraguay currently offers the most permissive environment for exercises in the region. That is a very valuable thing in and of itself which can not be taken for granted. This environment could be jeopardized if we do not handle deftly certain issues, particularly those related to Article 98 and the ICC.

-- FM Rachid told the Ambassador that her counterparts in Buenos Aires and Brasilia are very uncomfortable with the close military-to-military relationship between the U.S. and Paraguay; they would like to undo it, not only for ideological reasons, but because it causes them problems with their own Ministers of Defense, who would like to have U.S. exercises and cannot because those governments will not provide the protections the GOP offers. Ceferino Valdez, MFA Director of Bilateral Affairs, told the Ambassador that the Argentine Ambassador had sent Paraguay a note "on instructions from Buenos Aires" requesting it explain its agreement with the U.S. on exercise immunities. Valdez expressed resentment over the GOA's impertinence but indicated the FM had not decided yet how to respond.

-- FM Rachid and others defended exercise immunities by expressly and publicly reiterating the GOP position that it will not/not sign an Article 98 agreement and that nothing in the exercise immunities agreements interferes with Paraguay's ICC obligations. We see the immunities agreements as

protecting our troops from the ICC but do not advertise that interpretation.

-- A few Senators reacted to the FM's remarks by requesting the MFA incorporate into exercise immunities agreements language specifying that they do not violate ICC obligations. We have no new immunity negotiations coming up for another 18 months, and the Ambassador told FM Rachid that we would not/not accept reopening the immunity agreement already negotiated and passed by the Senate. Rachid said she had no intention of seeking that but told the press that it was a possibility to get them off her back.

-- Further complicating things, the new President of Congress, for a twelve-month period, is a leftist who is against all U.S. exercises here and a strong ICC supporter. We intentionally front-loaded the negotiations to get all exercise permissions for 18 months through Congress before he took over.

-- Separately, the German Ambassador to Paraguay, Horst Wolfram Krell, wrote a letter to one of Paraguay's leading newspapers "reminding" it that no country can guarantee immunity for crimes listed under Article 5 of the Rome Treaty and suggesting Paraguay incorporate a clause in future immunities agreements with the U.S. stating its intention to honor its Rome Treaty obligations. Ambassador Keane objected to Krell's action, noting that it was interference in U.S.-Paraguayan bilateral relations. Krell told the Ambassador that he had delivered that message on instructions.

-- Paraguay and MERCOSUR partners adopted a declaration at the recent Summit committing themselves not to sign bilateral or multilateral agreements that would affect the jurisdictional basis of the ICC, particularly in connection to Article 98.

-- Upcoming visits by SOUTHCOM Commander Craddock and a possible visit by SECDEF Rumsfeld will prompt another round of rumors and misinformation on the military exercises.

Implications for US policy

13. (C) We remain in negotiations with FM Rachid about the possibility of an exchange of notes which would both give us Article 98 protections and allow the GOP to continue to say it had not/not signed an Article 98 agreement; we are seeking a "non-agreement" "arrangement" open to diverse interpretations. However, all of the above suggests we have entered a delicate stage for Article 98 negotiations. First, the GOP is on record, in public and with its neighbors that it will not sign an agreement; to do so would seem a craven surrender to U.S. pressure. Second, pushing ahead the Article 98 debate could well lose us the permissive environment we have for exercises which is valuable in its own right. Post recommends a cooling period before resuming negotiations in earnest allowing for press and public interest in the military exercises to die down.

Press Release

14. (U) On July 7, the Embassy issued the following press release to respond to some of the more absurd accusations that have surfaced in the press:

Begin text.

The media and others in nearby countries have made statements about U.S.-Paraguayan military cooperation that are not true and have absolutely no basis in fact. The truth about some of the more ridiculous accusations is as follows:

-- The U.S. has absolutely no intention of establishing a military base anywhere in Paraguay.
-- The U.S. has no intention to station soldiers for a lengthy period in Paraguay.
-- The U.S. has no designs of any kind on Ciudad del Este, except that we are supporting programs to create jobs for Paraguayans there.
-- The U.S. has no interest in the Guarani Aquifer, except that we hope it will be a resource which assists the prosperity and well being of the inhabitants in its geographic proximity.

With respect to the recent accord between the US and Paraguay, approved by the Paraguayan Congress, for a number of short-term, joint military training exercises, the truth is that:

-- The U.S. and Paraguay have been conducting similar exercises for many years; there is nothing new in these.
-- Small numbers of US personnel, generally 10 to 20 persons, will train with their Paraguayan military colleagues during periods of two to six weeks. No U.S. soldiers will be deployed for an extended period of time, and there will never be more than a few dozen U.S. service members in Paraguay for longer than 45 days.

-- Among the first exercises are humanitarian medical assistance to thousands of needy campesinos and others in the Departments of Canindeyu, Caazapa and Neembucu.
-- Several other short-term exercises for training of various types will take place at different times in various locations between now and December 2006. Again, none of the training lasts more than 45 days.
-- Similar exercises for training occur routinely between U.S. armed services and the militaries of many other countries in Latin America, as they have for decades. Their purpose in all countries is to enhance the capabilities of the Latin American and U.S. militaries, and, in many cases, to provide humanitarian assistance to local populations.
-- These exercises for training are not linked to any other assistance being provided by the U.S. government.

End Text.

15. (U) FM Rachid told the Ambassador she would release a similar statement, but adding that Paraguay had not signed any agreement with any country that violated its obligations under the Rome Treaty.
KEANE